

1990 No. 434

**RATING AND VALUATION
LANDLORD AND TENANT, ENGLAND AND WALES
HOUSING, ENGLAND AND WALES**

The References to Rating (Housing) Regulations 1990

<i>Made - - - -</i>	<i>5th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i>	<i>1st April 1990</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by section 117(8) of the Local Government Finance Act 1988(a), sections 149 and 190(1) of the Local Government and Housing Act 1989(b) and of all other powers enabling them in that behalf, hereby make the following Regulations—

1. These Regulations may be cited as the References to Rating (Housing) Regulations 1990 and shall come into force on 1st April 1990.

2. The enactments specified in the Schedule to these Regulations are amended as specified in that Schedule.

3. Section 26(3)(a) (agricultural premises) of the General Rate Act 1967(c) shall continue to have effect after 31st March 1990 for the purposes of section 26 of the Rent Act 1977(d), sections 112 and 184 of the Housing Act 1985(e) and paragraph 6 of Schedule 1 to the Housing Act 1988(f) (land let with dwelling-house) as if section 117(1) (rates and precepts: abolition) of the Local Government Finance Act 1988 had not been enacted.

5th March 1990

Chris Patten
Secretary of State for the Environment

1st March 1990

Peter Walker
Secretary of State for Wales

(a) 1988 c.41.
(c) 1967 c.9.
(e) 1985 c.68.

(b) 1989 c.42.
(d) 1977 c.42.
(f) 1988 c.50.

SCHEDULE AMENDMENTS

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (a)

1. In section 16(4)(b) of that Act (protection of tenure of certain rented premises by extension of Housing Act 1988), as it applies otherwise than to Scotland,—

- (a) in paragraph (b) for “paragraph 2” substitute “paragraph 2A” (c), and
- (b) in paragraph (c) for “paragraph 3” substitute “paragraph 2, 3, 3A, 3B” (d).

Landlord and Tenant Act 1954 (e)

2. After section 2(1) (tenancies to which section 1 applies) insert—

“(1A) For the purpose only of determining whether the qualifying condition is fulfilled with respect to a tenancy which is entered into on or after 1st April 1990 (otherwise than, where the property comprised in the tenancy had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), for section 4(4)(b) and (5) of that Act (f) substitute—

“(b) on the date the contract for the grant of the tenancy was made (or, if there was no such contract, on the date the tenancy was entered into) R exceeded £25,000 under the formula—

$$R = \frac{P \times I}{1 - (1 + I)^T}$$

where—

P is the premium payable as a condition of the grant of the tenancy (and includes a payment of money's worth) or, where no premium is so payable, zero,

I is 0.06, and

T is the term, expressed in years, granted by the tenancy (disregarding any right to terminate the tenancy before the end of the term or to extend the tenancy).”.

3. For section 2(5)(g) substitute—

“(5) In this Part of this Act the expression “tenancy at a low rent” means a tenancy the rent payable in respect whereof (or, where that rent is a progressive rent, the maximum rent payable in respect whereof) is less than,—

- (a) where the tenancy was entered into before 1st April 1990 or (where the property comprised in the tenancy had a rateable value on 31st March 1990) is entered into on or after 1st April 1990 in pursuance of a contract made before that date, two-thirds of the rateable value of the property; and for the purposes of this subsection the rateable value of the property is that which would be taken as its rateable value for the purposes of section 5(1)(h) of the Rent Act 1977; and,
- (b) where the tenancy is entered into on or after 1st April 1990 (otherwise than, where the property comprised in the tenancy had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), is payable at a rate of,—
 - (i) £1,000 or less a year if the property is in Greater London, and
 - (ii) £250 or less a year if the property is elsewhere.”.

4. After section 2(7) (i) insert—

“(8) The Secretary of State may by order replace any amount referred to in subsections (1A) and (5)(b) of this section and the number in the definition of “I” in subsection (1A) by such amount or number as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

(a) 1951 c.65.

(b) Section 16, as it applies otherwise than to Scotland, was substituted by paragraph 2 of Schedule 17 to the Housing Act 1988.

(c) See paragraph 29 of this Schedule.

(d) See paragraphs 29 and 30 of this Schedule.

(e) 1954 c.56.

(f) See paragraph 16 of this Schedule.

(g) Subsection (5) was amended by paragraph 12 of Schedule 23 to the Rent Act 1977.

(h) See paragraph 17 of this Schedule.

(i) Subsection (7) was inserted by paragraph 13 of Schedule 23 to the Rent Act 1977.

Leasehold Reform Act 1967 (a)

5. For section 1(1)(a)(b) (tenants entitled to enfranchisement or extension) substitute—

“(a) his tenancy is a long tenancy at a low rent and,—

- (i) if the tenancy was entered into before 1st April 1990 or (where the house and premises had a rateable value on 31st March 1990) on or after 1st April 1990 in pursuance of a contract made before that date, subject to subsections (5) and (6) below, the rateable value of the house and premises on the appropriate day was not more than £200 or, if it is in Greater London, than £400; and
- (ii) if the tenancy is entered into on or after 1st April 1990 (otherwise than, where the house and premises had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), on the date the contract for the grant of the tenancy was made or, if there was no such contract, on the date the tenancy was entered into R exceeded £25,000 under the formula—

$$R = \frac{P \times I}{1 - (1 + I)^{-T}}$$

where—

P is the premium payable as a condition of the grant of the tenancy (and includes a payment of money's worth) or, where no premium is so payable, zero,

I is 0.06, and

T is the term, expressed in years, granted by the tenancy (disregarding any right to terminate the tenancy before the end of the term or to extend the tenancy); and”.

6. After section 1(6)(c) insert—

“(7) The Secretary of State may by order replace the amount referred to in subsection (1)(a)(ii) above and the number in the definition of “I” in that subsection by such amount or number as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

7. In section 4(1) (meaning of “low rent”)—

(a) after “yearly rate” insert—

“(i) if the tenancy was entered into before 1st April 1990 or (where the property had a rateable value on 31st March 1990) is entered into on or after 1st April 1990 in pursuance of a contract made before that date,” and

(b) after “term” insert—

“(ii) if the tenancy is entered into on or after 1st April 1990 (otherwise than, where the property had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), more than £1,000 if the property is in Greater London and £250 if the property is elsewhere”.

8. After section 4(6) insert—

“(7) Section 1(7) above applies to any amount referred to in subsection (1)(ii) above as it applies to the amount referred to in subsection (1)(a)(ii) of that section.”.

9. In section 9(1A)(d) (purchase price and costs of enfranchisement) for the words before paragraph (a) substitute—

“Notwithstanding the foregoing subsection, the price payable for a house and premises,—

- (i) the rateable value of which was above £1,000 in Greater London and £500 elsewhere on 31st March 1990, or,
- (ii) which had no rateable value on that date and R exceeded £16,333 under the formula in section 1(1)(a) above (and section 1(7) above shall apply to that amount as it applies to the amount referred to in subsection (1)(a)(ii) of that section)

shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, might be expected to realise on the following assumptions:—”.

(a) 1967 c.88.

(b) Section 1(1)(a) was amended by section 118(1) of the Housing Act 1974 (c.44).

(c) Section 1 (6) was inserted by section 118(1) of the Housing Act 1974.

(d) Subsection (2A) was inserted by section 118(4) of the Housing Act 1974.

10. In paragraph 6(1) of Part II of Schedule 3 (procedural provisions)–
- (a) in paragraph (b) after “particulars of the tenancy and” insert “, in the case of a tenancy falling within section 4(1)(i) of this Act,”, and
 - (b) after paragraph (d) insert–
 - “(e) in the case of a tenancy falling within section 1(1)(a)(ii) of this Act, the premium payable as a condition of the grant of the tenancy.”.

Rent (Agriculture) Act 1976 (a)

11. In section 12(9) (provisional rents)–
- (a) in paragraph (a)–
 - (i) after “value” insert “, where the dwelling-house had a rateable value on 31st March 1990,” and
 - (ii) after “of the dwelling-house” insert “on that date”, and
 - (b) at the end of paragraph (b) insert “, and
 - (c) “rent based on rateable value”, where the dwelling-house had no rateable value on 31st March 1990, means the weekly or other periodical equivalent of an annual amount equal to the rent at which it is estimated the dwelling-house might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the dwelling-house in a state to command that rent.”.
12. In section 12(11)–
- (a) after “value” insert “or the annual amount referred to in subsection (9)(c) above”, and
 - (b) after “was made” insert “, or, if that date is after 31st March 1990 and the dwelling-house had a rateable value on that date, 31st March 1990”.
13. In section 12(12) after “for the dwelling-house” insert “on the date as at which the rateable value is to be determined for the purposes of this section”.
14. In section 16(5) (notices of increase)–
- (a) after “If” insert “, in a case to which section 12(12) applies”, and
 - (b) for the words from “at the time” to “served” substitute “on 31st March 1990”.

Rent Act 1977

15. In section 4(1) (dwelling-houses above certain rateable values) after “A tenancy” insert “which is entered into before 1st April 1990 or (where the dwelling-house had a rateable value on 31st March 1990) is entered into on or after 1st April 1990 in pursuance of a contract made before that date”.
16. After section 4(3) insert–
- “(4) A tenancy is not a protected tenancy if–
 - (a) it is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), and
 - (b) under it the rent payable for the time being is payable at a rate exceeding £25,000 a year.
 - (5) In subsection (4) above “rent” does not include any sum payable by the tenant as is expressed (in whatever terms) to be payable in respect of rates, services, repairs, maintenance or insurance, unless it could not have been regarded by the parties as a sum so payable.
 - (6) If any question arises in any proceedings whether a tenancy is precluded from being a protected tenancy by subsection (4) above, the tenancy shall be deemed to be a protected tenancy unless the contrary is shown.
 - (7) The Secretary of State may by order replace the amount referred to in subsection (4) above by an amount specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

(a) 1976 c.80.

17. In section 5(1)(a) (tenancies at low rents) after "A tenancy" insert "which was entered into before 1st April 1990 or (where the dwelling-house under the tenancy had a rateable value on 31st March 1990) is entered into on or after 1st April 1990 in pursuance of a contract made before that date".

18. After section 5(2) insert—

“(2A) A tenancy is not a protected tenancy if—

- (a) it is entered into on or after the 1st April 1990 (otherwise than, where the dwelling-house under the tenancy had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), and
- (b) under the tenancy for the time being either no rent is payable or the rent is payable at a rate of, if the dwelling-house is in Greater London, £1,000 or less a year, and, if the dwelling-house is elsewhere, £250 or less a year.

(2B) Subsection (7) of section 4 above shall apply to any amount referred to in subsection (2A) above as it applies to the amount referred to in subsection (4) of that section.”.

Housing Act 1985

19. In section 174 (leases granted under Part V of the Housing Act 1985 to be treated as long leases at a low rent) after "on the first day of the term" insert "or more than the relevant amount specified in section 4(1)(ii) of that Act"(b).

20. In section 175(1) (determination of price payable) for the words from "the rateable value" to the end substitute "the circumstances specified in that section (c) do not apply".

21. In section 389(1)(a) (compensation payable to dispossessed proprietor) omit "by reference to the rateable value of the house".

22. In section 582(7)(b) (disapplication of restriction on recovery of possession after making of compulsory purchase order), after "where" insert ", in the case of a compulsory purchase order made before 1st April 1990,".

23. In section 622 (minor definitions : general) for the entry for "district valuer" substitute " "district valuer", in relation to any land in the district of a local housing authority, means an officer of the Commissioners of Inland Revenue appointed by them for the purpose of exercising, in relation to that district, the functions of the district valuer under this Act;".

24. In paragraph 7 of Part II of Schedule 13 (control orders : compensation to dispossessed proprietor)—

(a) after "equal to" insert—

“(a) in a case where the gross value of the house was shown in the valuation list on the date a control order made before 1st April 1990 came into force,”, and

(b) at the end insert "in accordance with paragraphs 8 to 13; and

(b) in any other case, one half of the rental value of the house in accordance with paragraph 13A.”.

25. After paragraph 13 of that Part insert—

“Calculation of rental value

13A.—(1) The rental value of a house is an amount equal to the rent at which the house might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and the landlord undertook to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the house in a state to command that rent.

(2) The amount referred to in sub-paragraph (1) shall be determined by the local housing authority as at the date on which the control order comes into force; and any dispute arising in respect of that determination shall be referred in writing for decision by the district valuer.”.

26. In paragraph 14(1) of that Part after "value" insert ", or as the case may be, rental value”.

(a) Subsection (1) was amended by Schedule 26 to the Housing Act 1980 (c. 51).

(b) See paragraph 7 of this Schedule.

(c) See paragraph 9 of this Schedule.

Housing Act 1988

27. After section 1(2) (assured tenancies) insert—

“(2A) The Secretary of State may by order replace any amount referred to in paragraphs 2 and 3A of Schedule 1 to this Act by such amount as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

28. In section 24(2)(b) (assured agricultural occupancies)—

- (a) after “paragraph 3” insert “, 3A, 3B”(a), and
- (b) for “or both of those paragraphs” substitute “or more than one of those paragraphs”.

29. For paragraph 2 of Schedule 1 (tenancies which cannot be assured tenancies) substitute—

“2.—(1) A tenancy—

- (a) which is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), and
- (b) under which the rent payable for the time being is payable at a rate exceeding £25,000 a year.

(2) In sub-paragraph (1) “rent” does not include any sum payable by the tenant as is expressed (in whatever terms) to be payable in respect of rates, services, management, repairs, maintenance or insurance, unless it could not have been regarded by the parties to the tenancy as a sum so payable.

2A. A tenancy—

- (a) which was entered into before the 1st April 1990, or on or after that date in pursuance of a contract made before that date, and
- (b) under which the dwelling-house had a rateable value on the 31st March 1990 which, if it is in Greater London, exceeded £1,500 and, if it is elsewhere, exceeded £750.”.

30. For paragraph 3 of Schedule 1 substitute—

“3. A tenancy under which for the time being no rent is payable.

3A. A tenancy—

- (a) which is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), and
- (b) under which the rent payable for the time being is payable at a rate of, if the dwelling-house is in Greater London, £1,000 or less a year and, if it is elsewhere, £250 or less a year.

3B. A tenancy—

- (a) which was entered into before 1st April 1990 or, where the dwelling-house had a rateable value on the 31st March 1990, on or after 1st April 1990 in pursuance of a contract made before that date, and
- (b) under which the rent for the time being payable is less than two-thirds of the rateable value of the dwelling-house on 31st March 1990.

3C. Paragraph 2(2) above applies for the purposes of paragraphs 3, 3A and 3B as it applies for the purposes of paragraph 2(1).”.

Local Government and Housing Act 1989

31. After paragraph 1(2) of Schedule 10 (security of tenure on ending of long residential tenancies) insert—

“(2A) For the purpose only of determining whether the qualifying condition is fulfilled with respect to a tenancy which is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house has a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), for paragraph 2(1)(b) and (2) of Schedule 1(b) to the Housing Act 1988 there shall be substituted—

(a) See paragraph 30 of this Schedule.

(b) See paragraph 29 of this Schedule.

“(b) where (on the date the contract for the grant of the tenancy was made or, if there was no such contract, on the date the tenancy was entered into) R exceeded £25,000 under the formula—

$$R = \frac{P \times I}{1 - (1 + I)^T}$$

where—

P is the premium payable as a condition of the grant of the tenancy (and includes a payment of money's worth) or, where no premium is so payable, zero,

I is 0.06,

T is the term, expressed in years, granted by the tenancy (disregarding any right to terminate the tenancy before the end of the term or to extend the tenancy).”.

32. After paragraph 1(7) of that Schedule insert—

“(8) The Secretary of State may by order replace the number in the definition of “I” in sub-paragraph (2A) above and any amount referred to in that sub-paragraph and paragraph 2(4)(b) below by such number or amount as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

33. For paragraph 2(4) of that Schedule substitute—

“(4) A tenancy is “at a low rent” if under the tenancy—

(a) no rent is payable,

(b) where the tenancy is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), the maximum rent payable at any time is payable at a rate of—

(i) £1,000 or less a year if the dwelling-house is in Greater London and,

(ii) £250 or less a year if the dwelling-house is elsewhere, or,

(c) where the tenancy was entered into before 1st April 1990 or (where the dwelling-house had a rateable value on 31st March 1990) is entered into on or after 1st April 1990 in pursuance of a contract made before that date, and the maximum rent payable at any time under the tenancy is less than two-thirds of the rateable value of the dwelling-house on 31st March 1990.”.

34. In paragraph 2(5) of that Schedule for “Paragraph 3(2)” substitute “Paragraph 2(2)”(a).

(a) See paragraph 29 of this Schedule.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain housing legislation in consequence of the discontinuance of rating of domestic property. The enactments affected include those which relate to leasehold enfranchisement, assured tenancies, regulated tenancies, housing association tenancies, long tenancies at low rents, agricultural occupancies and statutory tenancies and control orders relating to houses in multiple occupation. Regulation 3 preserves a definition of agricultural land in the General Rate Act 1967 for the purposes of the Rent Act 1977, Parts IV and V of the Housing Act 1985 and paragraph 6 of Schedule 1 to the Housing Act 1988.

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